

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES M. SALERNO

Appeal No. 2004-1012
Application No. 09/715,216

ON BRIEF

Before GARRIS, WARREN, and OWENS, Administrative Patent Judges.
GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 8-10 and 14, which are all of the claims remaining in the application.

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The subject matter on appeal relates to a gaming table system comprising a gaming table cloth and a gaming table wherein a first fastening member secured to a border portion of the cloth is releasably secured to a second fastening member which is secured around the circumference of the table. This appealed subject matter is adequately illustrated by independent claim 8 which reads as follows:

8. A gaming table system comprising:

a gaming table cloth having gaming symbols formed on one surface thereof and comprising a tight, woven fabric of a predetermined denier, size and shape, the fabric having a border portion and a first fastening member secured to one surface of said cloth border portion; and

a gaming table comprising a surface portion, a portion extending substantially perpendicular from said table surface and around the circumference thereof, and a second fastening member secured around the circumference of said perpendicularly extending table portion, said gaming table cloth being positioned on the surface of said table whereby said first fastening member is releasably secured to said second fastening member.

The references set forth below are relied upon by the examiner as evidence of obviousness:

Hartwell	4,954,384	Sep. 04, 1990
Ehrlich	5,060,712	Oct. 29, 1991
Sui	5,084,321	Jan. 28, 1992
Seibert	5,568,666	Oct. 29, 1996
Hairston	5,778,802	Jul. 14, 1998

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Claims 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hairston in view of Seibert, Ehrlich and Hartwell, and claim 14 stands correspondingly rejected over these references and further in view of Sui.

We refer to the brief and to the answer for a complete exposition of the respective viewpoints expressed by the appellant and by the examiner concerning these rejections.

OPINION

For the reasons which follow, we cannot sustain either of the above-noted rejections.

We agree with the appellant that the applied prior art contains no teaching or suggestion of securing a cloth to a table pursuant to the manner here claimed. In support of his contrary view, the examiner presents the following exposition on page 6 of the answer.

The patent to Hartwell discloses a Food Rack Cover. Hartwell is used to show (see figure 4) that the teaching of a first fastening member (52) being secured to a second fastening member (47) (the second fastening member being attached to the circumference of the Rack/object(40) (or table) being covered) is known. It would have been obvious in view of Hartwell to attach the fitted fabric cover (50) of Hairston directly to the table edge using continuous Velcro around the table edge for adequate security of the cover.

The examiner is clearly erroneous in believing that Hartwell discloses "a second fastening member (47) [which is] attached to the circumference of the Rack/object (40) (or table) being covered" (id.). In fact, element 47 of Hartwell represents the top horizontal edge of patentee's cover 50. A Velcro strip 52 extends along this top edge 47 and is complementary to Velcro strip 54 which extends along the top edge 49 of the front section 46 for cover 50. In these respects, see lines 28-38 in column 2 of the Hartwell patent. Thus, it is clear that the Velcro strips or fastening members of Hartwell are associated only with his cover 50 and are not associated in any way with the rack 40 which underlies this cover as the examiner erroneously believes.

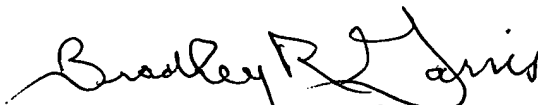
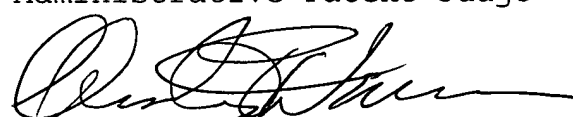
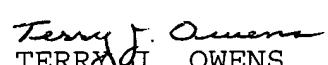
In light of his clearly erroneous interpretation of the Hartwell disclosure, there is no factual support for the examiner's concomitant obviousness conclusion that "[i]t would have been obvious in view of Hartwell to attach the fitted fabric cover (50) of Hairston directly to the table edge using continuous Velcro around the table edge for adequate security of the cover" (answer page 6). For this reason and because none of

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the other applied references supplies this deficiency, we cannot sustain the examiner's § 103 rejection of claims 8-10 as being unpatentable over Hairston in view of Seibert, Ehrlich and Hartwell, or his corresponding rejection of claim 14 as being unpatentable over these references and further in view of Sui.

The decision of the examiner is reversed.

REVERSED

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BRADLEY R. GARRIS)	
Administrative Patent Judge)	
)	
CHARLES F. WARREN)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
TERRY J. OWENS)	
Administrative Patent Judge)	

BRG/vsh

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